

IC 12-28

ARTICLE 28. MISCELLANEOUS PROVISIONS CONCERNING MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES

IC 12-28-1

Chapter 1. Indiana Protection and Advocacy Service Commission

IC 12-28-1-1

Policy; purpose; liberal construction

Sec. 1. (a) It is the policy of the state that every developmentally disabled individual, mentally ill individual, and individual seeking or receiving vocational rehabilitation services has the same right to legal and other professional and lay representational services to promote, protect, and advocate the individual's interests as any other individual.

(b) It is the intent of this chapter to secure to the state, the state's local units of government, and Indiana citizens maximum benefits under the Developmentally Disabled Assistance and Bill of Rights Act (P.L.94-103), and to this end this chapter should be liberally construed.

As added by P.L.2-1992, SEC.22.

IC 12-28-1-2

Advocacy defined

Sec. 2. As used in this chapter, "advocacy" means speaking for, pleading for, supporting, advising, espousing the rights of, or interceding on behalf of individuals with developmental disabilities, mentally ill individuals, or individuals seeking or receiving vocational rehabilitation services before public or private agencies, organizations, institutions, or individuals serving developmentally disabled individuals or mentally ill individuals or providing vocational rehabilitation services.

As added by P.L.2-1992, SEC.22.

IC 12-28-1-3

Commission defined

Sec. 3. As used in this chapter, "commission" refers to the Indiana protection and advocacy services commission established by this chapter.

As added by P.L.2-1992, SEC.22.

IC 12-28-1-4

Services defined

Sec. 4. As used in this chapter, "services" refers to Indiana protection and advocacy services.

As added by P.L.2-1992, SEC.22.

IC 12-28-1-5

Vocational rehabilitation services defined

Sec. 5. As used in this chapter, "vocational rehabilitation services" refers to services available under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

As added by P.L.2-1992, SEC.22.

IC 12-28-1-6

Establishment of commission; membership; eligibility; advisory members

Sec. 6. (a) The Indiana protection and advocacy services commission is established. The commission is composed of thirteen (13) members who represent or who are knowledgeable about the needs of individuals served by the commission, including mental retardation, cerebral palsy, epilepsy, autism, and mental illness to be appointed as follows:

(1) Four (4) members to be appointed by the governor.

(2) Nine (9) members to be appointed by a majority vote of commission members.

(b) An official or employee of a branch of state government that delivers services to the individuals who are developmentally disabled, mentally ill, or seeking or receiving vocational rehabilitation services is not eligible for membership on the commission.

(c) One (1) member of the senate appointed by the president pro tempore of the senate and one (1) member of the house of representatives appointed by the speaker of the house of representatives serve in an advisory nonvoting capacity to the commission.

As added by P.L.2-1992, SEC.22. Amended by P.L.140-1993, SEC.3.

IC 12-28-1-7

Term of office; consecutive terms

Sec. 7. (a) The term of office of a member of the commission is three (3) years.

(b) A member may not serve more than five (5) consecutive terms.

As added by P.L.2-1992, SEC.22. Amended by P.L.23-1998, SEC.1; P.L.46-2003, SEC.1.

IC 12-28-1-8

Vacancies

Sec. 8. A vacancy on the commission must be filled by appointment not later than sixty (60) days after the vacancy occurs. A member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of the term.

As added by P.L.2-1992, SEC.22. Amended by P.L.140-1993, SEC.4.

IC 12-28-1-9

Per diem; travel expenses

Sec. 9. The commission members are entitled to per diem and

travel expenses for attending the meetings of the commission as provided for state employees under IC 4-10-11-2.1.

As added by P.L.2-1992, SEC.22.

IC 12-28-1-10

Executive director

Sec. 10. The commission shall establish Indiana protection and advocacy services and appoint an individual to be executive director of the services. The executive director serves at the pleasure of the commission and shall devote the director's time exclusively to the performance of the duties of the office.

As added by P.L.2-1992, SEC.22.

IC 12-28-1-11

Purpose of commission

Sec. 11. The primary purpose of the commission is to assure adequate legal and advocacy services for the:

- (1) promotion;
- (2) protection; and
- (3) advocacy;

of the rights and interests of developmentally disabled individuals, mentally ill individuals, and individuals who are seeking or receiving vocational rehabilitation services throughout Indiana.

As added by P.L.2-1992, SEC.22.

IC 12-28-1-12

Powers, duties, and functions of commission

Sec. 12. Notwithstanding IC 4-6-2, the commission has the following powers, duties, and functions:

- (1) Establish and maintain all necessary offices.
- (2) Subject to IC 4-15-2:
 - (A) appoint;
 - (B) fix the compensation for; and
 - (C) prescribe the duties of;

the attorneys, other employees, and agents the commission considers necessary.

- (3) Provide legal and other advocacy services throughout Indiana to individuals or organizations on matters related to the protection of the legal and human rights of developmentally disabled individuals, mentally ill individuals, and individuals who are seeking or receiving vocational rehabilitation services.

- (4) Enter into contractual relationships and sue and be sued in the name of the services.

- (5) Apply for, solicit, and accept contributions or grants of money, property, or services made by gift, devise, bequest, grant, or other means from any source that the commission considers best to assist the services in performing its purpose.

- (6) Provide information and referral services.

- (7) Adopt rules under IC 4-22-2 to do the following:

- (A) Establish and operate local protection and advocacy

service units.

(B) Operate the service.

(C) Perform the commission's duties.

(8) Ensure full participation in the electoral process in individuals with disabilities, including registering to vote, casting a vote, and accessing polling places, in accordance with 42 U.S.C. 15461 through 15462.

As added by P.L.2-1992, SEC.22. Amended by P.L.209-2003, SEC.201.

IC 12-28-1-13

Eligibility for services

Sec. 13. A mentally ill individual is eligible for services under this chapter if the individual:

(1) has a significant mental illness or emotional impairment, as determined by a mental health professional qualified under Indiana statutes and rules; and

(2) is:

(A) an inpatient or a resident in a facility rendering care or treatment even if the location of the inpatient or resident is unknown;

(B) in the process of being admitted to a facility rendering care or treatment, including an individual being transported to the facility; or

(C) involuntarily confined in a municipal detention facility for reasons other than serving a sentence resulting from conviction for a crime.

As added by P.L.2-1992, SEC.22.